

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

FRANCIS K. STOCKELBERG  
and  
ALICIA PLATT STOCKELBERG

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-3113

Decision No. CU 4196

Counsel for claimant:

Leo J. Fox, Esquire

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$52,000.00 was presented by FRANCIS K. STOCKELBERG based upon the asserted loss of certain real and personal property in Cuba. Claimant, FRANCIS K. STOCKELBERG has been a national of the United States since birth.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

The record before the Commission discloses that ALICIA PLATT STOCKELBERG, a national of the United States since birth, has been the wife of FRANCIS K. STOCKELBERG since 1934. Pursuant to the Community property law of Cuba she acquired an interest in property acquired by her husband in Cuba subsequent to their marriage. Accordingly, ALICIA PLATT STOCKELBERG is joined as a claimant in this matter.

Claim has been asserted as follows:

2700 vara of land at \$10.00	\$27,000.00
2 - story house	15,000.00
household furnishings	10,000.00

Based on a report from abroad, the Commission finds that a house and land, Lot 6 of Section 56 of Reparto Biltmore, is registered in the name of FRANCIS K. STOCKELBERG, having been acquired in 1953.

On October 14, 1960, the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law. Under this law the renting of urban properties, and all other transactions or contracts involving transfer of the total or partial use of urban properties was outlawed (Article 2). The law covered residential, commercial, industrial and business office properties. It also provides that citizens of foreign countries who do not have the status of legal residents shall be excluded from the rights and benefits conferred by this law.

Based on the foregoing and the evidence of record, the Commission finds that the above described real property was taken by the Government of Cuba pursuant to the provisions of the Urban Reform Law; and, in the

absence of evidence to the contrary, that the taking occurred on October 14, 1960, the date on which the law was published in the Cuban Gazette. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39)

The Commission further finds that certain personal property in the nature of household furnishing was also taken from the claimants on October 14, 1960.

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant". This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

The record includes a description of the real property as 2100 square meters, improved by a house of 1 1/2 floors, of masonry construction having approximately eight rooms and usual facilities. There are also affidavits and a report from abroad, as well as an itemized list of the personalty.

On the basis of the evidence of record, the Commission finds that on October 14, 1960, the date of loss, the house and lot had a value of \$21,000.00 and that the personalty in the house, exclusive of the cash, had a value of \$6,000.00.

With regard to the cash in the amount of \$3,600 asserted to have been confiscated by the Government of Cuba, the Commission finds that the evidence is of insufficient probative value to establish that it was lost as a result of nationalization or other taking by the Government of Cuba. The Commission is therefore constrained to deny this portion of the claim and it is hereby denied.

The Commission concludes that claimants FRANCIS K. STOCKELBERG and ALICIA PLATT STOCKELBERG sustained losses in the aggregate amount of \$27,000.00 within the meaning of Title V as a result of the taking of their property by the Government of Cuba on October 14, 1960.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see the Claim of Lisle Corporation, FCSC Claim No. CU-0644), and in the instant case, it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that FRANCIS K. STOCKELBERG and ALICIA PLATT STOCKELBERG suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Twenty-seven Thousand Dollars (\$27,000.00) with interest thereon at 6% per annum from October 14, 1960 to the date of settlement.

Dated at Washington, D.C.,  
and entered as the Proposed  
Decision of the Commission

NOV 14 1969

*Theodore Jaffe*

Theodore Jaffe, Commissioner

*Sidney Freidberg*

Sidney Freidberg, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)

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